

mittee's investigation, and an encroachment upon defendant's rights under the Fourth Amendment. . . . The duces tecum part of the subpoena is so lacking in specification and description, and so wide in its demands, that it is felt it could not have been ordered had the application for it been made to this court.⁽³⁾

Although courts refuse to enforce subpoenas which they find to be overbroad, they refuse to limit a committee's use of information in its possession. After telegraph companies refused to comply with a Senate committee's subpoena duces tecum directing them to produce all telegrams transmitted from their offices from Feb. 1 to Sept. 1 of 1935, representatives of the committee and the Federal Trade Commission examined these messages and made notes and copies. Conceding that a court could enjoin this "trespass" while it was being conducted, a court of appeals stated that it lacked authority to enjoin use of the material after the committee had gained possession.⁽⁴⁾

A subpoena for documents held in a representative capacity need

not be as specific as one for documents belonging to an individual. Thus, a subpoena directing production of "All records, correspondence and memoranda of the Civil Rights Congress relating to: . . . (1) the organization of the group; (2) its affiliation with other organizations; and (3) all monies received or expended by it," did not constitute "unreasonable search and seizure."⁽⁵⁾

§ 12. —Sixth Amendment

Because the language of the sixth amendment stipulates its application "In all criminal prosecutions," the amendment does not apply directly to congressional investigations. Consequently, a witness is not entitled to confront or cross-examine witnesses.⁽⁶⁾ But

3. *United States v Groves*, 18 F Supp 3 (W.D. Pa. 1937); because the case was decided on the point of failure to appear before the committee, the statement relating to the subpoena was dictum.
4. *Hearst v Black*, 87 F2d 68, 71 (D.C. Cir. 1936).

5. *McPhaul v United States*, 364 U.S. 372, 381 (1960); compare *McPhaul* with *United States v Groves*, 18 F Supp 3 (W.D. Pa. 1937), note supra, which discusses a subpoena for papers which belong to an individual.
6. *United States v Fort*, 443 F2d 670 (D.C. Cir. 1970), cert. denied, 403 U.S. 932 (1971). *Fort*, however, cites examples of granting a limited right of self-examination (p. 680 and n. 24). See also *Hannah v Larche*, 363 U.S. 420 (1960), in which the Supreme Court by analogy approved state legislative committee rules which denied the rights of confronta-

the rules of the House take cognizance of rights included in the sixth amendment, including right to counsel and compulsory process. Thus, a witness may be accompanied by his own counsel for the purpose of advising him of his constitutional rights.⁽⁷⁾ Furthermore, if a committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, such person is entitled to request that additional witnesses be subpoenaed.⁽⁸⁾ Where the committee does not determine that evidence or testimony may defame, degrade, or incriminate any person, the chairman receives and the committee disposes of requests to subpoena additional witnesses.⁽⁹⁾

Although sixth amendment procedural guarantees do not apply

tion and cross-examination, in that the court sustained the rules of the Commission on Civil Rights which did not grant these rights in fact-finding investigations.

7. Rule XI clause 28(k), *House Rules and Manual* §735(k) (1973). See §14, *infra*, for precedents dealing with the right to counsel.
8. Rule XI clause 28(m), *House Rules and Manual* §735(m) (1973). See §15, *infra*, for a discussion of the effect of derogatory information.
9. Rule XI clause 28(n), *House Rules and Manual* §735(n) (1973). See §13.6, *infra*, for a discussion of adoption of this rule.

to investigative proceedings, they apply to the criminal proceedings brought as a result of them. A court of appeals reversed a contempt conviction on the ground that the question the witness refused to answer, whether he had been a "member of a Communist conspiracy," lacked the definiteness required by the sixth amendment provision, "In all criminal prosecutions, the accused shall enjoy the right . . . to be informed of the nature and cause of the accusation. . . ."⁽¹⁰⁾ A count of an indictment charging that a witness committed perjury before a congressional committee when he denied that he had ever been "a sympathizer or any other kind of promoter of Communism or Communist interests" was held void for vagueness under the sixth amendment.⁽¹¹⁾

§ 13. Rights of Witnesses Under House Rules

In addition to constitutional provisions, certain rules of the House grant rights to witnesses at investigative hearings, or establish procedures for such hear-

10. *O'Connor v United States*, 240 F2d 404 (D.C. Cir. 1956).
11. *United States v Lattimore*, 215 F2d 847 (D.C. Cir. 1954).